



POLICE DEPARTMENT

October 20, 2008

MEMORANDUM FOR: Police Commissioner

Re: Sergeant Kevin Janusz
Tax Registry No. 911446
Forensic Investigation Division
Disciplinary Case No. 82903/07

The above-named member of the Department appeared before me on June 25, 2008 and July 1, 2008, charged with the following:

1. Said Sergeant Kevin Janusz, assigned to the IAB Command Center, on or about January 13, 2006, while on-duty, having become aware of an allegation of corruption or serious misconduct involving a member of the service, did fail and neglect to immediately notify the Chief of Internal Affairs Department, and did fail to notify the Duty Captain so an immediate investigation could be conducted.

PG 207-21 Page. 1-2 ALLEGATIONS OF CORRUPTION AND SERIOUS
MISCONDUCT AGAINST MOS, COMPLAINTS

The Department was represented by Stephen Bonfa, Esq., Department Advocate's Office, and the Respondent was represented by Bruno Gioffre, Esq.

The Respondent, through his counsel, entered a plea of Not Guilty to the subject charge. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

The Respondent is found Not Guilty.

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SUMMARY OF EVIDENCE PRESENTEDThe Department's Case

The Department called Sergeant John Scifo and Detective Morgan Samuel as witnesses.

Sergeant John Scifo

Scifo, currently assigned to the Chief of Internal Affairs Bureau Group 25, worked for the Internal Affairs Bureau (IAB) Group 1 from 2000 to September of 2007. His duties included internal investigations for the Department under the authority of the Chief of Internal Affairs and the Police Commissioner. He was assigned to investigate allegations of misconduct against members of the service at the rank of captain and above, personnel assigned to IAB, and anyone else deemed appropriate by the Chief of Internal Affairs.

Scifo testified that he worked in this capacity in 2006, and was assigned a case involving the Respondent who was investigating an allegation of misconduct against Lieutenant Michael A. Telfer. Scifo stated that it was a child abuse case in which allegations of misconduct from the Administration of Children's Services (ACS) were made against the lieutenants and members of the service assigned to the 113 Precinct.

Scifo completed a full investigation of the allegations by interviewing ACS workers, conducting Department interviews and doing background checks. He was assigned this case through the Lieutenant in his command around the 20th of January 2006. Scifo stated that the incident involving the Respondent occurred on January 13, 2006, the date the log was created. He explained that on that date, ACS went to Telfer's

residence to investigate an allegation of child abuse and neglect perpetrated by his wife. The 113 Precinct responded to the location and conducted a field investigation. ACS alleged that Telfer interfered with their investigation using his position at the Department to influence the police officers that arrived on the scene, refused to give his identification to ACS, and refused to let ACS into his residence to interview his children.

At that point, a Mrs. Ramirez from ACS called IAB. Scifo stated that he was not sure of the inner workings of the IAB Command Center, having never worked there, but knows the Command Center has "operators that man the phones." The operators would take the information and initiate an IAB log, and the information is put on paper, and if the caller identifies officers, subject officers, or witnesses, that is inputted into the log. The log is generated and goes through channels from there.

Scifo was shown a document (Department's Exhibit (DX) 1). He explained that the document was an IAB usage log which lists who accessed the log [of the incident] and on what date and time. He explained that DX 1 deals with one particular log created on January 13, 2006 at approximately 12:44 p.m. by Police Officer Morgan Samuel of the Command Center. Scifo agreed that the usage log was a record of everybody who accessed the log, stating, "[T]hey would have to go into IA-Pro using an IA-Pro code and access it. And that's basically how it's found that they went into the system."

Scifo was then shown a second document (DX 2). He stated that it was a copy of IAB log 06-01364 generated on January 13, 2006, and that it referred to M case number 06-0089. The subjects of the log were Telfer and Sergeant Karl Leudesdorff of the 113 Precinct. Scifo said that the log referred to two witnesses, Police Officer Laine A. Brancato and Police Officer Angel C. Rolon, both of the 113 Precinct. The usage log

shows who accessed the log regarding Telfer and Leudesdorff. Scifo stated that the Respondent accessed the log on January 13, 2006, at 3:00 p.m. He also stated that Telfer had been linked to the case for misconduct at 2:51 pm. He explained that Telfer was a subject. He further explained that upon review of the usage log, new allegations were added to the case against Telfer at 2:52 p.m., 2:54 p.m. and 2:55 p.m. Scifo testified that all of the allegations were added before the Respondent accessed the log. He said that his investigation revealed that the Respondent was assigned to the IAB Command Center as a supervisor on that day. His investigation also revealed that no one initiated a call out to the location involving Telfer.¹

On cross-examination, Scifo agreed that Telfer was linked as the subject officer at 2:51 p.m., and that the usage log was created at 12:44 p.m. When asked when the log was generated, Scifo testified that the heading of DX 2 indicated that the log was generated at 12:14 p.m., and that the body indicated that the call came in at 1:39 p.m. He explained that he would "usually go with the body of the story." Scifo acknowledged however, that he never worked in the Command Center. He stated that he was unaware of a practice where people working in the Command Center would "grab" several logs when they reported to work and then later assign each to a particular case. Scifo admitted that he did an Official Department Interview with Samuel, but denied that Samuel mentioned the above practice. Scifo remembered Samuel "saying that he didn't recall speaking to a supervisor and he thinks he put the log in a basket."

¹ A "call out" is defined by Scifo as a telephone call to the IAB Command Center which results in an IAB investigator being called out to the field to investigate a matter that is current. He differentiated this from an assigned investigation in which a call or anonymous letter comes into the IAB Command Center, but the initial complaint is not investigated until it goes through channels and is assigned. Scifo said it could take as long as a week or two for the complaint to be assigned.

Scifo agreed that at 2:52 p.m. a new allegation was added to the incident, and specified that the addition was not completed at 2:54 p.m. Scifo then affirmed that the time of 1:39 p.m. found in the body of the log only indicated the time when the incident was first initiated, and not that the entire body was entered in the log at the time. Scifo agreed that he could not say what was in the body at the time when the Respondent accessed it at 3:00 p.m., or even if the summary was there, reiterating that he had no way of knowing what was contained in the log when the Respondent accessed it.

Scifo then acknowledged that at 3:24 p.m., Lieutenant Azeez accessed and assessed the log, explaining that Azeez assessed it prior to the Assessments Unit reviewing it. Scifo explained that the Assessments Unit is another unit within IAB at Hudson Street that reads all the logs from the previous day and checks the assessment of the supervisor similar to a check and balance system. He agreed that the Command Center initially assessed the logs that come in, and then the Assessments Unit (AU) reviews the Command Center logs to ensure that they were assessed correctly and has them assigned.

Scifo again denied knowing what the Respondent observed when he accessed the log at 3:00 p.m., and admitted that Samuel then accessed the log again at 3:06 p.m., when he added Leudesdorff, Rolon, and Brancato as witnesses. Scifo agreed that this would indicate to him that the log was not complete.

On re-direct examination, Scifo denied that when a call comes to IAB, an investigation needed to be completed before a callout is made. He also denied that notification to the Chief of Internal Affairs or the Duty Captain needed to wait until a call was completed. Scifo testified that according to the top of the log the call from ACS was

received at 12:14 p.m., and that, in the summary at 1:39 p.m., Samuel entered the allegations of Department Rules Violation (DRV)—Other, DRV—Impede Investigation, DRV—Failed to Notify IAB, and DRV—Investigation Incomplete/Improper. Scifo stated that additional information was added to the body by somebody with the initials MDM on January 16, 2006, when somebody did a follow-up on the case. However, the phone number contained in the update was incorrect, and so “the information that was inputted on the 16th was absolutely useless.”

On re-cross examination, Scifo acknowledged that even though a log did not need to be completed for a sergeant to notify the Duty Captain, it is necessary that the sergeant become aware of an allegation of corruption or serious misconduct.

On questioning by the Court, Scifo clarified that Misconduct (M) cases, such as the one in question, are not as serious as Corruption (C) cases, another type of specification, and that the classification is determined by AU after they read the log. He also stated that a third type of classification was OG, or Outside the Guidelines. Scifo testified that Telfer was linked as the subject of the log at 2:51 p.m. Scifo stated that the time of 1:39 p.m. found in the body of DX 2 would indicate to him that that was the time at which Samuels began his summary narrative. He explained that “unassessed” indicated that a log has not been reviewed by either a supervisor or AU. Scifo testified that Deborah Gay of AU assessed DX 2 on January 16 at 12:39 a.m. Scifo further testified that Azeez initially assessed the case on January 13 at 3:24 p.m., changing the case from unassessed to OG. When AU reviewed the case on January 16, they changed the classification from OG to M.

On re-cross examination, Scifo stated that between 2:51 p.m. and 2:54 p.m. on January 13, Telfer was entered as the subject officer with the allegations of Domestic-Other, DRV-Department Rules and Procedures. Scifo agreed that an additional allegation, DRV-Impede Investigation, was not assessed until 1102 on January 16. To his knowledge, only two allegations were present at 3:00 p.m. on January 13 when the Respondent accessed the log. When asked if there was any way of knowing when Telfer's identifying information, such as his precinct, area, age, and employment were added to the log, Scifo said, "No," although Telfer's name was definitely linked at 2:51 p.m.

Detective Morgan Samuel

Samuel is currently assigned to the Command Center. He testified that that he has worked patrol in the confines of the 69 Precinct, the 72 Precinct for five years, School Safety for two years and then was transferred to the Command Center in IAB while still a police officer. He stated that he was promoted to the rank of detective on December 21, 2007.

Samuel testified that on January 13, 2006 while he was assigned to the Command Center, he received a telephone call from an ACS worker. He explained that the ACS worker told him that she was at the house of a member of the service and that he had struck one of his children. She wanted to interview all of the children, but the member of the service refused to let her interview the other two children. She further explained that "she wanted to conduct a warrant execution in the house to interview the two smaller children."

Samuel stated that he put the ACS worker on hold and spoke to one of his supervisors. He said that he took handwritten notes of the conversation which were annotated into a log. He explained that his handwritten notes were inadvertently destroyed. Samuel was shown DX 1 and DX 2. He said that DX 2 is the log where he inputs data. With respect to DX 1, he testified that he had never seen that log before today and said that it looks like a log that just details the time and date that information was inputted. He explained that when he generates a log number, he would skip the first part of the log and go to the second part of the log and input his initials, time, and date. He would then go back to the first part of the log [DX 1] and complete it.

Samuel was questioned about DX 2, the log which stated at the top, that the M case was received on January 13, 2006 at 12:14 p.m. Samuel testified that the entry appeared to be an error because the log [DX 1] had a time of 12:44 p.m. He stated that to the best of his recollection, he received the call at 12:44 p.m. Samuel said that initially he only inputted the time and his initials and "sometime during the tour" he inputted the summary. Samuel testified that he observed the log and noticed that the Respondent reviewed the log at 3:00 pm. He said that he could not state for certain that he completed his summary by that time. He also said that it should have been completed or close to completion by 3:00 p.m. given the time that he received the initial call.

Samuel made mention of the entry in the log which noted that Telfer was linked as a subject [DX 1]. He said this corresponded to page one of the other log [DX 2]. He also said that the entry that Telfer was a subject of, along with the two allegations of domestic/other and other Department rules and procedures was inputted before 3:00 p.m. and before the Respondent reviewed the log. Samuel stated that the Respondent was

aware of the sum and substance of the telephone call he received because he stood up and explained what type of call came in. He testified that the Respondent then spoke with the ACS supervisor that he had on hold. Samuel said he could not hear the conversation between the Respondent and the ACS supervisor. However, he stated that following the conversation, the Respondent said that they would not make a notification because it may impede the ACS warrant execution. Samuel testified that on that date, January 13, 2006, he had been assigned to the Command Center for a few weeks.

During cross-examination, Samuel was asked whether he recalled stating during his Official Department Interview held on April 28, 2006 that he did not have any conversation with any supervisor regarding the log. He stated that he did recall giving that answer. Samuel explained that the incident had been raised so many times that in retrospect, he was able to recollect what actually happened. He acknowledged that at his interview held three months after the incident, he did not recall the conversation with the Respondent at that point. He also admitted that he did not recall the telephone conversation with the ACS worker at that point either. He explained that sometime after the interview, he had a lot of time to think about the incident and what transpired. He could not put a time period on when he remembered the conversation with the Respondent and the ACS supervisor. He further explained that being called for the interview did not refresh his memory because he received the notice to appear the day before the interview.

Samuel admitted that following his interview, he received a Schedule B Command Discipline for his part in the incident. He stated that he received the Command Discipline about a year after the interview. He could not recall if he had

recollected the conversations at that point. Samuel stated that the first time he told the Assistant Department Advocate that he recalled the conversations were today.

When asked on DX 1 what the 12:44 pm time referred to, Samuel stated that it was the time that the call came in to the Command Center. Samuel was asked whether that time represented the time the call came in or the time he opened a log. Samuel said it represented the time he opened the log. Samuel denied stating that he opens four or five logs at the same time and then assigns a case to it to save time. He explained that he just got to the Command Center and was not familiar with the "tricks of the trade," so he opened a new log when he received a call.

In reviewing the log [DX 2], Samuel acknowledged that aside from himself, someone named Ramon Cruz was accessing the log at 1:22 p.m., 1:25 p.m. and 1:29 p.m. Samuel admitted that he did not access the log again until 1:29 p.m. He admitted that much of what was put into the log occurred after 1:29 p.m.

Samuel stated that his recollection of the allegation was that the Lieutenant struck his 16-year old child. Samuel was asked to review the contents of his summary contained on page two of DX 2. He then stated that the allegation was that the mother struck the 16-year old child. Samuel acknowledged that he inadvertently destroyed his handwritten notes. He explained that up to that point, he had received no training in the Command Center. He stated that once he had notes that he did not need anymore, he shredded the notes like everyone else. He further explained that no one advised him to attach his scratch notes to the log.

Samuel admitted that the Respondent accessed the log at 3:00 pm. He acknowledged that he accessed the log himself at 3:06 pm, and 3:10 p.m. He admitted

that because he accessed the log after 3:00 p.m., he was not finished with the log at the time the Respondent accessed it. Samuel stated that the comment the Respondent made about not reporting the ACS matter was said in the presence of other people, but he could not recall how many other people heard it. Samuel also stated that the Respondent's comment was not said directly to him.

During further redirect examination, Samuel testified that he was extremely nervous during his Official Department Interview. He explained that once he received a B Command Discipline, he thought the case was closed. He further explained that it was not until a few months ago that he learned that the Respondent was "fighting" some charges. Samuel was shown a document and he refreshed his recollection that his Command Discipline was for failing to notify the Duty Captain.

Samuel stated that his relationship with the Respondent was cordial and that he did not have any ill will toward him. With respect to his discarded scratch notes, Samuel stated that everything contained in his notes was memorialized in his summary because he reviews it. He said that his summary was a word for word copy of his notes.

During further cross-examination, Samuel admitted that he accepted a Schedule B Command Discipline and one day for failing to make a notification. He acknowledged that he accepted the penalty without fully examining what happened on the night in question. He said that it would not have changed the outcome of the penalty. He also agreed that he accepted a penalty even though he testified that he informed the Respondent on the night in question about the incident.

When reviewing the log, Samuel stated that the call came in at 12:44 p.m. He was asked whether the call could have come in at 1:39 p.m. He stated that he was unclear

as to what that time 1:39 p.m. represented. He said that he thought it represented the time that he actually inputted the summary. He acknowledged that he waited for the Respondent to start his tour to report the incident to him. He explained that it took him some time to gather information before creating a summary. He also stated that even though the Respondent worked a 4:00 p.m. tour, he reported to work at 2:00 p.m.; and there was only a 21 minute difference between his last entry and the time the Respondent reported for duty. Samuel testified that he was assigned to IAB in October 2005, two months before the January log incident.

During questioning by the Court, Samuel testified that he was assigned to IAB as an investigator and his function was to prepare logs. He stated that DX 1 refers to "Domestic/other." He explained that when the log went on to refer to a new allegation of "Domestic/Other," there was no explanation given as to what the new allegation was. He further explained that it is treated like a catchall phrase to give a category to the misconduct.

Samuel stated that the reference at 11:02 to "DRV impede investigation" was made by some one else. Samuel said that in his summary at 1:39 p.m., he did not put all the details contained in that summary in at the time. He explained that as he investigated, he added more to the summary. Samuel believed that he spoke to the ACS worker over the telephone more than once. He noted that the Respondent did not report for duty until 2:00 pm and the initial ACS call came in around 12:44 p.m. He did not believe he was on the telephone from 12:44 p.m. until 2:00 p.m.

The Respondent's Case

The Respondent testified in his own behalf.

The Respondent

The Respondent is a 16-year member of the Department assigned to the Forensic Investigation Division. He stated that he was assigned to the IAB Command Center on March 17, 2005. His duties included reviewing incoming logs, assisting police officers and detectives who were taking the logs, reviewing tapes, writing reports and various other administrative duties. He said that the logs involved allegations against members of the service. The Respondent testified that he supervised between ten and 12 officers. He said that there were only three supervisors in the command, himself, another sergeant and a lieutenant. He estimated that he reviewed between 70 and 80 logs during the course of a tour.

The Respondent testified that he would go in and out of logs created by his investigators during the course of his tour. An officer would initial a log when he commenced the log and initial it at the conclusion of the log. The Respondent said that if the log was completed, he would then assess it. He stated that if an officer was working on a log and he entered into the log also, he [the supervisor] could only read the log and not write on the log while it was accessed by someone else. The Respondent explained that he had no independent recollection of the log involved in this matter. He explained that during the two years that he worked at the Command Center, he estimated that he accessed approximately 50,000 logs, assessed about 20,000 logs and read about 25,000 logs. He stated that on any given day he assessed between 20-25 logs. He also stated that it was not unusual to go into a log two or three times and never read it.

The Respondent stated that he accessed Samuel's log at 3:00 p.m. He said that he could not recall if the log was completed or not, but he did note that Samuel went back into the log five more times after him which would indicate that Samuel had not finished with the log yet. The Respondent testified that reviewing the log did not indicate how long he spent accessing Samuel's log. The Respondent said that he did not remember having a conversation with Samuel about the case or speaking with an ACS worker. He stated that the first time he read the log was during his Official Department Interview.

During cross-examination, the Respondent said he did not believe he had any conversation with anyone about this log. He was asked if the fact that a warrant was going to be executed at a member of the service's residence would cause him to react to the log, the Respondent replied, "Not particularly." He stated that the purpose for calling the duty captain would be to commence an investigation. He said that a duty captain usually goes out on a domestic incident.

The Respondent stated that when he accessed the log, it did not contain the summary statement that is there now. He said that he did learn of the allegation either on the 13th or the next day, but he acknowledged that he did not make a notification for a duty captain or a superior. The Respondent testified that when he stated during his interview that he read the part of the summary that referred to the warrant, he was referring to what the interviewer had him read at the interview, not what he read back on the incident date.

During redirect examination, the Respondent stated that just having the name Telfer and the allegations of domestic/other and other Department rules and procedures, that information alone would be insufficient to contact a duty captain. The Respondent

said that he needed a completed log before he would make any telephone calls on a domestic incident.

During further cross-examination, the Respondent was asked if he had Telfer's name, the two allegations as well as the summary and the only information he was missing was the final initials of the investigator would he make a call to the duty captain. The Respondent stated that he would still wait until the investigator was finished with the log.

Upon questioning by the Court, the Respondent was asked what specific language in the summary would require notification to the duty captain. He stated that any domestic involvement with a member of the service requires a notification to the duty captain. The Respondent said that just reading the log, there is no reference to domestic in it. One would have to go to another screen while assessing the log to access the information about the domestic issue. The Respondent reiterated that he did not assess this log. He also reiterated that he did not remember talking to Samuel about this log and he did not remember having any conversation with an ACS worker either.

FINDINGS AND ANALYSIS

The Respondent stands charged with failing and neglecting to immediately notify the Chief of Internal Affairs and failing to notify the duty captain after having become aware of an allegation of corruption or serious misconduct involving a member of the service. I find the Respondent Not Guilty as charged. Evidence adduced at trial established that a call came into the IAB Command Center alleging that a member of the service interfered with an ACS investigation. Scifo, the investigator who reviewed the

IAB logs in this matter testified that Samuel was the investigator who received the call to the Command Center. Although he testified about the allegations in the case, Scifo could not state for certain that the summary which accompanied the allegations was completed at the time that the Respondent accessed the log.

Samuel, the investigator who received the call at the Command Center was later called as a witness in this matter. It is important to note that he had never reviewed the usage log [DX 1] which is one of the seminal documents in this matter. He testified that the first time he saw the usage log was when he was shown the document at trial. Surely this was insufficient preparation to review the work he had prepared in this matter.

Samuel acknowledged that his preparation of the summary in the matter on the incident date was in essence a work in progress. He stated that he believed the log was completed at 4:00 p.m. when the Respondent accessed it, but he could not be certain. He also acknowledged that following the time that the Respondent accessed the log, he accessed the log five more times. A review of the log [DX 1] shows that Samuel not only accessed the log five more times, but also accessed the log almost 20 minutes after the Respondent accessed the log. One is able to establish that he added the names of three witnesses during that time. It is the belief of this Court that given the volume of additional information added to the investigation, and the fact that the names of the witnesses were added to the substance of the summary, that there is a strong likelihood that Samuel had not finished his investigation when the Respondent accessed the log that one time. In addition, it is also likely that Samuel added additional information to his summary of the facts.²

² It is noted that following Samuel's five entries, a Lieutenant Azeez accessed the log and then assessed it.

To require a sergeant to make a notification to a duty captain just because he accessed a log, even when the log may not have been completed and initialed by the investigator is burdensome. The Respondent testified credibly that he reviews 20 to 25 logs a tour. He stated that he looks for the initials at the end of a log before he reviews it to assess it. He said it is not uncommon for him to enter a log and not read it. This would occur where the investigator has not signed off on a log yet. The mere fact that the log may contain an allegation of "domestic" in and of itself is not a sufficient basis to notify a duty captain of the allegation if a summary of the misconduct cannot be communicated. Moreover, a review of the completed summary in this matter illustrates that it makes no mention of the word, "domestic." Following the date and time, the summary notes, "DRV-other//DRV-Impede Investigation/DRV-Failed to Notify IAB/DRV-Investigation Incompl/Improper***."³ There is no mention of a domestic component to this case. The only way the Respondent would know there is a domestic component to this case is to read under the name of one of the subjects, Telfer, and one of the allegations listed states, "domestic," without any further explanation.

Samuel did not seem prepared to answer the questions at trial. During cross-examination, Samuel initially stated that the allegation against Lieutenant Telfer was that he struck his teenage child and refused ACS access at his residence. After reviewing his own log, he recalled that it was Telfer's wife who struck the child.

The most troubling aspect of Samuel's testimony was that he stated that he recalled having a conversation with the Respondent while he spoke to the ACS worker. He stated that he put the ACS worker on hold and spoke with the Respondent. The Respondent also spoke with the ACS worker. However, none of this information was

³ "DRV" refers to Department Regulation/Violation

revealed by Samuel at his Official Department Interview which was held approximately three months after the incident. At his Official Department Interview, Samuel stated that he never conferred with a supervisor on the incident date. When Samuel recalled this information, he never advised anyone at the Department including Scifo, the investigator who interviewed him. He only mentioned it to the Assistant Department Advocate the day of trial.

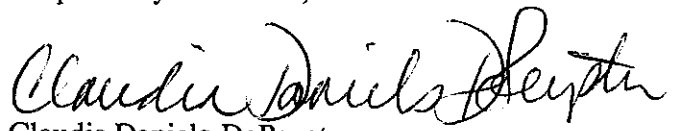
I found this recollection of events by Samuel to lack credibility. Particularly since Samuel took a Schedule B Command Discipline for failing to make a notification to the duty captain. He stated at trial that the Respondent advised him not to make the notification because it may compromise the execution of the ACS warrant. It is surprising that Samuel would not have recalled this discussion with the Respondent who directed him not to make a notification before accepting his first Command Discipline in his career. In addition, Samuel had only been assigned to the Command Center for a few weeks when this incident occurred. It is difficult to understand how he could not have recalled any of the events accurately by the time of his Department interview. And his trial testimony is diametrically opposed to the statement he made at his Official Department Interview that he did not confer with a supervisor. The Official Department Interview was closer in time to the incident date. Furthermore, the Respondent testified that he did not remember discussing the case with Samuel at all. He also did not remember speaking with an ACS worker. I found the testimony of Samuel to be sufficiently lacking in credibility.

Samuel also testified at trial that he could not state for certain that he completed his investigation by 4:00 pm on January 13, 2006 when the Respondent accessed the log. Specifically Samuel was asked, "Do you remember when you inputted the entire summary?" He replied, "Sometime during the tour." He acknowledged that he made five, additional inputs into the log after the Respondent accessed it and he stated that he was probably not finished with the log.

Based on the inability of the Department to determine what was contained in the summary of the log when the Respondent accessed it only once, along with the inability of Scifo or Samuel to testify about what the log contained when the Respondent accessed it, the Department was unable to make out its case by a preponderance of the credible evidence. The Department was unable to prove that the Respondent was aware of an allegation of corruption or serious misconduct that warranted notification to the Chief of Internal Affairs or the duty captain.

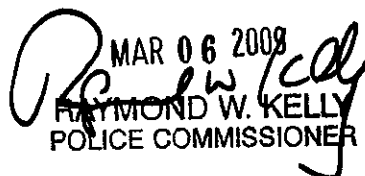
Accordingly based on the above, I find the Respondent Not Guilty.

Respectfully submitted,


Claudia Daniels-DePeyster

Assistant Deputy Commissioner-Trials

APPROVED


MAR 06 2008
RAYMOND W. KELLY
POLICE COMMISSIONER